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International Court of Justice

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Official Transcript of the International Military Tribunal in the matter of the United States of American, the French Republic, the United Kingdom of Great Britain and Northern Ireland, and the Union of Soviet Socialist Republics against Hermann Wilhelm Goering et al, Defendants, sitting at Nurnberg, Germany, on 17 July 1946, 1000-1700, Lord Justice Lawrence presiding.

DR. SIEMERS: Yesterday I dealt with the events before the outbreak of war. Now I shall turn to the events which occurred during the war.

I think I have shown that the Navy had an extremely insignificant part in all events prior to the War, and that the transactions in which the Navy was authoritatively involved were carried out on a peace basis, namely, on the basis of the Naval Treaty with England. When the war nevertheless ultimately broke out on the 3 September 1939, also involving England, a regrettable incident occurred at the outset, on the first day, namely the sinking of the "Athenia", from which the Prosecution attempts, in exaggerated terms, to construe a ponderous moral accusation against Raeder, not so much indeed on the basis of its actual military side, that is, the sinking, which my colleague Dr. Kranzbuehler has already discussed, as on account of an article published in the "Voelkischer Beobachter" of 23 October 1939 and entitled "Churchill Sinks the 'Athenia'." Were the statement of facts brough forward by the Prosecution correct, the moral accusations against Raeder and the Navy would be justified, even though, of course, an untruthful newspaper article is no crime. Consequently, the accusation brought by the Prosecution is only made for the purpose of deprecating Raeder's personality in contradiction to the life-long esteem which Raeder has enjoyed in the whole world and especially abroad.

I think the evidence has sufficiently revealed that the statement of facts presented by the Prosecution is not correct. Surely this must be our conclusion if the Prosecution believed at first that the odious article in the "Voelkischer Beobachter" could not have appeared without the knowledge of the Naval Command.

The Prosecution believed this because, in view of their conspiracy comple they think there was permanent intelligence and close cooperation between the

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various departments and especially between the Navy and Propaganda Ministry, between Raeder and Goebbels, was far greater than the opposition between individual departments in a democratic State. Consequently, the testimonies of witnesses Raeder, Schulte-Moenting, Weizsaecker and Fritsche, together with the documents, establish the following facts absolutely clearly:

1. In early September 1939 Raeder himself firmly believed that the sinking was not imputable to a German U-boat because it was revealed by the reports that the nearest German U-boat was at least 75 nautical miles away from the spot of the sinking.

2. Accordingly, Raeder, as stated in Document D 912, published a "bona fide" denial, and issued declarations to this effect to the American Naval Attache and to the German Secretary of State Baron Weizsaecker.

3. Raeder did not realize the mistake until after the return of the U 30 on the 27 September 1939.

4. Hitler insisted, as evidenced by witnesses Raeder and Schulte-Moenting, that no rectification of the facts should be made to any other German or foreign department, that is to say, that the sinking should not be acknowledged as caused by a German U-boat. He apparently yielded to the impulse of political considerations and wished to avoid complications with the USA over an incident which could not be remedied, however regrettable it was. Hitler's order was so strict that the few officers who were in the pictu were put under oath to keep it secret.

5. Fritsche disclosed that after the first investigation by the Navy in early September 1939, he made no further investigation and that the "Voelkische Beobachter" article appeared as a consequence of a complete agreement between Hitler and Goebbels, without previous notice to Raeder. On this point the testimonies of Raeder and Schulte-Moenting coincide. It is consequently clear that Raeder -- in contradiction to the claim of the Prosecution -- was not the author of the article and moreover had heard nothing about the article before its appearance. I regret that in spite of this clarification, the Prosecution apparently are intent upon persisting in their claim by the production, on the 3 July 1946, of a new document, D 912. This newly submitted document contains only radio broadcasts by the Propaganda Ministry

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which are of the same kind as the "Voelkischer Beobachter" article. These radio broadcasts were a propaganda instrument of Goebbels and cannot, any more than the article, be brought up as a charge against Raeder, who, in fact, was at the time informed of the article only and not of the radio broadcasts. Ev the fact that Raeder did not attempt any rectification, after being informed of the article, cannot be made a moral charge against him since he was bound by Hitler's order and had no idea at the time that Hitler himself had a hand in the article, which Weizsaecker aptly described as perverse phantasy.

I venture, in this connection, to remind the Tribunal that it is a notorious fact that precisely at the beginning of the war, inaccurate reports also appeared in the English press about alleged German atrocities, which, even after this clarification, were not rectified, as for instance, the false report about the murder of 10,000 Czechs in Prague by German elements in September 1939, although the matter had been cleared up by a commission of neutral journalists.

The Prosecution believe they possess overwhelming material against all the defendants. If this presumption were correct with reference to Raeder, the Prosecution would scarcely have felt the necessity of bringing forward precisely this "Athenia" case in such ponderous and injurious terms with the sole purpose of discrediting the former Commander-in-Chief of the German Navy.

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Concerning Greece, the Prosecution makes accusation against Raeder of violation of neutrality and breach of international law, namely :

1. On the basis of document C 12 according to which Hitler decided on the basis of a report by Raeder on 30 December 1939 that :

"Greek merchant ships in the zone around England which the USA declared prohibited, are to be treated like enemy ships."

2. According to document C 167 on the occasion of delivery of a report to Hitler on 18 March 1941, Raeder asked for confirmation that "all of Greece is to be occupied, even in case of peaceful settlement."

In the course of the trial both accusations have turned out to be without support ; in both cases there is no action which violated international law.

With reference to accusation one : Raeder and the German naval command learned in October /November 1939 that quite a number of Greek merchant ships had been put at the disposal of England, either at the instance or with the approval of the Greek government. This fact cannot be reconciled with strict neutrality and, according to principles of international law, it gave Germany the right to take an equivalent counter measure. This justified counter measures consisted in treating Greek ships, which sailed for England, as enemy ships from the moment they were in the zone around England which had been declared prohibited by the United States.

With reference to accusation two : Germany, especially the High Comman of the Navy, had received reports that certain Greek military and political circles maintained the closest connections to the Allied General Staff over since 1939.

As time went by more and more reports came in. What the Allies were plannin on the Balkans is known; the intentions were the erection of a Balkan front against Germany. For this purpose local conditions in Greece, as well as in Rumania, were examined on the part of the Allied General Staff of the Allied officers, in order to build airplane bases there. Furthermore preparations were made to land in Greece. As proof, I have presented as Raeder Exhibit No. 59, the minutes for the session of the French War Committee of 26 April 1940. which shows that the War Committee at that time had already checked the question of possible operations in the Caucasus area and in the Balkans, from which results the activity of General Jauneaud in Greece for

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the continuation of investigations and preparations and the attempts to camouflage the trip by making it in civilian clothing.

This attitude of Greece and especially her agreement with Allied plans represents a violation of neutrality on the part of Greece; for Greece did not appear as England's ally but formally continued to maintain her neutrality Therefore, Greece could no longer figure that Germany would fully respect Greek neutrality. Germany nevertheless, respected Greek neutrality for a long time to come. The occupation of Greece took place in April 1941 only after British troops had already landed in Southern Greece on 3 March 1941.

The fact that Greece agreed to the British landing is, according to generally recognized rules, without importance in international legal relation and for the international legal decision between Germany and England and between Germany and Greece; it has importance only for the legal relations between England and Greece.

The British Prosecution tried to justify the occupation of Greece with the fact that Greek neutrality was menaced by Germany, especially by the occupation of Bulgaria on 1 March 1941. In this connection the Prosecution is overlooking that not only the execution of the occupation of Greece by British forces, but also the planning of the Allies started essentially earlier than the German planning. But however that may be, no accusation, at all, can be raised against Raeder, because the date of document C 167 submitted by the Prosecution is 18 March 1941, which means it is 14 days later than the landin if the English in Southern Greece . In any case, at that time Greece could no longer demand that her alleged neutrality be respected. But beyond that the accusation is also unjustified when the Prosecution points out that Raeder asks for confirmation for all of Greece to be occupied. This question of Raeder was not a causal factor for the fact that all of Greece was occupie : for Hitler had provided already in his order No. 20 of 13 December 1940 that the entire Greek continent was to be occupied, in order to frustrate English intentions of creating a dangerous basis for air operations under the protection of a Balkan front, especially for the Rumanian oil district. In addition to that, the inquiry of Raeder on 18 March 1941 was justified on strategic grounds, because Greece offered many landing possibilities for the British and the only possible defense was for Greece to be firmly in the hands of Germany, as witnesses Raeder and Schulte-Moenting have explained.

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This strategic conception of Raeder had nothingto do with plans of conquest or desire for glory, as the Prosecution thinks for the navy won no glory whatsoever in Greece because the occupation was a land operation, and the occupation of an originally neutral country is simply the regrettable consequence of such a big war; it cannot be charged to one belligerent, if both belligerents had plans concerning the same state and carried out these plans.

I should like now to go on to the subject of Norway. On 9 April 1940 troops of all 3 branches of the German Armed Forces occupied Norway and Denmark. From this and the preceding plans, the Prosecution have drawn up the most grave accusation against Grand Admiral Raeder, alongside, I understand, with the collective charge of participation in a conspiracy.

The British Prosecutor has pointed out that it was Raeder who first suggested the occupation of Norway, to Hitler and believes that Raeder accomplished the occupation out of a spirit of conquest and vainglory. I shall demonstrate that this argumentation is incorrect. Only one thing is correct, that is, that in this single instance Raeder took the initiative of first approaching Hitler on the subject of Norway, namely, on the 10 October 1939. I shall, however, show that he has in fact acted in this connection not as a politician but enclusively as a soldier. Raeder sensed purely strategic dangers, and pointed out these strategic dangers to Hitler, because he assumed that the Allies contemplated the establishment of a new fron in Scandinavia in Norway in particular, and knew that an occupation of Norway by Britain could have a militarily decisive consequence to the detriment of Germany. I shall show that Germany has committed no violation of international law by the occupation of Norway. Before I state the legal foundation and connect the facts established by the appraisal of evidence with the principles of international law, I should like first to state an important fact :

As Raeder's examination shows, he was very reluctant in acting as Supreme Commander for the Norwegian action and as disclosed by Schulte-Moending's interrogations. Raeder had the natural feeling of justice that a neutral state could not be drawn into the existing war without an absolutely imperative emergency. In the period between October 1939 and Spring 1940, Raeder had always defended the opinion that by far the best folution would be that Norway and all Scandinavia remain absolutely neutral.

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This, Raeder and Schulte-Moenting disclosed unanimously at their interrogation and it is, moreover, proved by documents. For this, I refer to Raeder Exhibit No. 69. In this, the conviction of Raeder that the most favourable solution is undoubtedly the preservation of the strictest neutrality by Norway which is entered in the War Diary on 13 January 1940. Raeder had clearly convinced himslef that an occupation of Norway by Germany for motives of international justice or strategic reasons could only be conceivable if Norway could not or would not maintain an absolute neutrality.

The Prosecution has referred to the treaties between Germany and Norway in particular to Document TC 31, in which the German Reich Government, on 2 September 1939 expressly assures Norway of her inviolabity and integrity. In this memorandum, the following legitimate remark is added :

"If the Reich Cabinet makes this declaration it, of course, also expects that Norway in turn, will observe irreproachable neutrality towards the Reich, and that it will not tolerate breaches of Norwegian neutrality should attempts along that line be made by third parties."

If despite this fundamental attitude, Germany yet decided to occupy Norway, this was done because of the threat that the plans of the Allies created the danger of occupation of Norwegian bases by them. In his opening speech, Sir Hartely Shawcross declared that according to the indictment, Germany's breach of neutrality and its war of aggression against Norway remained criminal even if Allied plans for the occupation had been correct and he added that in reality such plans were not ture. I believe that the argument advanced here by Sir Hartley Shawcross is contrary to accepted International Law. If Allied plans for the occupation of Norwegian bases existed, and there were dangers that Norway neither would nor could maintain strict neutrality, in such a case accepted standards of International Law did justify Germany's Norway campaign.

I may first revert to the juridical angle, according to accepted standards of International Law, in order to create a foundation for my own reasoning, while I shall at the same time try to set forth those legal viewpoints which contradict the Prosecution's interpretation. In order to save time in this legal exposition, and in order to make the conception comprehensible

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I have submitted as Raeder Exhibit No. 66 an opinion on International Law on the Norway Campaign by Dr. Hermann Mosler, A Professor of International Law at the University of Bonn. The High Tribunal will bear in mind that I was given permission to make use of this opinion for purposes of argumentation, and I may therefore refer at this point to this detailed scientific compilation and argument. In my final pleading I shall confine myself to a summary of the most essential concepts of legal opinion.

Articles 1 and 2 of the Hague Convention on Rights and Obligations of Neutrals in the event of Warfar at Sea stipulate that "the parties at war are bound to respect the rights of sovereignty of neutral powers in the territory and coastal waters of the neutral power", and that all unfriendly acts on the part of the belligerent parties within the delimitation of the coastal waters of a neutral power "are strictly banned as violations of neutrality." Contrary to these stipulations, Great Britain violated Norway's neutrality through the laying of mines in Norwegian coastal waters for the purpose of obstructing the legitimate passage of German warships and merchantmen, especially in order to cut off the exportation of iron ore from Narvik to Germany. In the letter of the Foreign Office which I received in reply to my petition for authorization to submit files of the British Admiralty, confirmation as per Raeder Exhibit No. 130 was received to the effect that His Majesty's Forces laid mine fields in Norwegian waters, and in addition it was stated that this was a well known fact.

It should ne an uncontested fact that thereupon Germany was justified in reestablishing the disturbed equilibrium between the belligerent parties, in other words in wresting from the enemy's forces the benefit they were deriving from violation of neutrality.

THE PRESIDENT: Dr. Sr. Siemers, the Tribunal would like to know what your contention is on this subject. Do you contend that any breach of neutrality of a neutral state entitles one of the warring nations to enter that neutral state?

DR. SIEMERS: I am sorry, Mr. President; I did not understand it all, I am afraid.

THE PRESIDNET: Well, there seems to be a certain amoung of electrical disturbance. What the Tribunal would like to know is whether it is your contention that any breach of neutrality by one of the warring states entitles the other warring state to enter and invade the neutral state.

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DR. SIEMERS: Mr. President, in this general respect, I certainly would not think of saying that. It is a principle of international law that a violation of international law committed by one state only entitles the other warring nation to counter-measures, or a counter-measure, which the breach of neutrality is equal to. In other words, certainly an occupation of Norway on the part of Germany would not be justified because Britain mined the coastal waters. That fact, as such, does not justify an occupation.

THE PRESIDENT: Would it be your contention that it made any difference on the rights of Germany if Germany were to be held to be an aggressor in the original war?

I will repeat it. According to your contention, would it make any differenc that Germany was held, if it were held, to be the aggressor in the original war, out of which the occupation of the neutral country occurred?

DR. SIEMERS: Mr. President, I beg to apologize, but I am afraid I can not quite understand the sense as it comes through in translation.

THE PRESIDENT: I will say it again more slowly. According to your contention, would it make any difference if the Tribunal were to think that German had been the aggressor in the war which led to the occupation of the neutral state?

DR. SIEMERS: I simply can not understand.

My apologies, Mr. President. Now, if I understood it correctly, you wish me to answer the question whether the fact that previously a war had been begun by Germany against Poland, whether this fact would influence my juridical attitude toward the question of Norway.

THE PRESIDENT: Assuming. I only say assuming that the war begun by Germany against Poland were to be held to be an aggressive war.

DR. SIEMERS: Mr. President, I believe that the answer is in the negative because the individual acts, under international law, must be dealt with separately. The fact that the Tribunal may possibly assume--namely, that an aggressive war was conducted against Poland -- can not have any effect upon the point of view of international law in the subsequent years.

That, incidentally, is the point of view adopted also by the Prosecution. Sir Hartley Shawcross also dealt with the complex of Greece and the question of landings entirely from the point of view of the Greek events, and he has not said that Britain could occupy Greece because Germany had occupied Poland. He

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said, just as I did, that from the standpoint of international law Britain could occupy Greece because Greece was threatened by a German occupation, and that is all that I am trying to say from the point of view of international law. Other parallels I am not trying to draw. It applies to Norway also, as the further part of my plea will show.

THE PRESIDENT: Yes. There is one other question which I should like to ask you. Is it your contention that Germany was entitled under international law to use the territorial waters of Norway, either for her warships or for the transport of ore, or for the transport of prisoners of war?

DR. SIEMERS: In my opinion, from the standpoint of international law, the situation is that Germany was entitled to use the coastal water, observing at the same time the various international rules; as, for instance, only brief stays in ports and similar rulings such as, for instance, the duty of submitting to investigation by neutrals, such as, for instance, was carried on in the case of the battleship "Altmark", but principally, to carry out shipping operations off Narvik was justified as far as I know from the point of view of international law.

THE PRESIDENT: Continue.

DR. SIEMERS: Mr. President, with reference to the last point, may I add one thing? If one were of the opinion that Germany was not allowed to use these coastal waters, then the mining of these coastal waters would have been a justified breach of neutrality on Britain's part, so that, as far as I am concerned, the mining operations would have to be left out of my plea but not the other facts which I am referring to. Mining is an equivalent circumstance. I myself consider that the mining operation was not permissible and that travelling through coastal waters was permissible, but the entire complex is not bringing me to any final conclusions with reference to the occupation of Norway. I do hope that I shall be understood correctly. I am not saying that Germany was allowed to occupy Norway because Britain had mined the coastal waters.

THE PRESIDENT: But you are saying, are you, that Germany was entitled to use the coastal waters, first of all, for the transport or ore; secondly, for her warships?

DR. SIEMERS: Yes.

THE PRESIDENT: And thirdly, for the transport of prisoners of war?

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DR. SIEMERS: It is my opinion, Mr. President, that for ore transports there was no clause in international law which prohibitsthat, so that that shipping was permissible.

With reference to prisoners of war, may I permit myself to point out that there is only one inference, and that is the case of the ship "Altmark". If Germany was not allowed to use coastal waters for transport of prisoners of war, then that could only bring about the consequences that Britain would be allowed to adopt an equivalent counter-measure, in an individual case to adopt some measure, some action; that it would not allow her to mine the entire coastal waters. The mining of the entire coast, from the point of view of international law, is only justified if you adopt the point of view that Germany's merchant navy was prohibited from entering those coastal waters. But that, in my opinion, is not the situation.

THE PRESIDENT: You may continue.

DR. SIEMERS: Reaction against such violation of neutrality is primarily directed against the adversary and not against the neutral party. Legal relationship deriving from neutrality exists not only between the neutral party and the two belligerent parties, but the neutrality of the respective neutral State is at the same time a factor in direct relations existing between the belligerent parties. If the relationship of neutrality between one of the belligerent parties and the neutral power suffers disturbance, the neutral powercan in no way file complaint if the other belligerent power take appropriate action, in which case it is entirely immaterial whether the neutral State is unable or unwilling to protect its neutrality.

The legal title under which the prejudiced belligerent Power can proceed to counter measure is "the right of self-preservation"; "le droit de preservation personell." As brought out in detail by legal opinion, this right of self-preservation is generally accepted by International Law. It may suffice to point out here that this basic law is not affected by the Kellogg Pact as often mentioned in this Court. I may therefore also ask permission for a brief quotation from the circularised memorandum of the American Secretary of State Kellogg dated 23 June 1938, as follows:

"There is nothing in the American draft of an anti-war treaty which restricts or impairs the right of self-preservation in any manner.

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That right is inherent in every Sovereign State and is implicit in every treaty."

So far I have quoted Kellogg. Justice Jackson will permit me to mention that he, himself, in his opening speech of 21 November 1945, referred to the "right of legitimate self-preservation."

It is interesting that in his address before the Parliament, on 8 February 1940, the Swedish Foreign Minister Guenther recognized this idea, although he protected the interests of one of the belligerents and although this speech was made before Germany proceeded to retaliatory measures in Norway. In that address Guenther took the attitude to the English declaration that Sweden's neutrality would be respected so long only as it would be respected by England's enemies. Guenther recognized the fact that Sweden, in its relationship with England, would lose its neutrality should Germany violate Sweden's neutrality and should Sweden not be willing or able to prevent such violation of neutrality through Germany. Consequently, so said Gunther, Great Britain would no longer be held to treat Sweden as a neutral country. It is clear that the conclusions drawn by Guenther in the event of a breach of neutrality through Germany must also apply to the tri-partite legal relationship between Great Britain-Germany-Norway. The real aim, however, and this I shall set forth in my presentation of evidence, was not Great Britain's mining actions in Norwegian coastal waters, but a much further-reaching Anglo-French scheme aiming at the occupation of Norwegian bases and of a portion of the Norwegian home territory. The mining action enters into the picture merely as a part of the total plan.

According to Mosler's opinion, and in the light of the above remarks, it is absolutely certain that Germany was justified in occupying Norway had the Allies carried part of their plan into effect by landing at a Norwegian base before German troops made their appearance. This, however, did not occur. Rather, as I will show, the situation was that Germany anticipated an Anglo-French landing, in other words decided for counter-measures on account of the imminent danger which threatened.

Legally, a second question should also be investigated: Assuming the same conditions, are counter-measures not permitted until after the other belligerent has proceeded to violate neutrality, or is reaction permitted in the presence of the imminently threatening violation of neutrality in order to anticipate the enemy's attack?

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According to the findings composed by Dr. Mosler the preventive counter-measure is permissible, andthe directly impending violation of neutrality which can be expected with certainty, is to be considered equal to a completed violation of neutrality.

The well-known Anglo-Saxon specialist on international law, Westlake, states to the question of the preventime measure:

> "Such a case in its character resembled that one, that a belligerent has the certain knowledge that his opponent, in order to gain a strategic advantage, is just about to have an army march through the territory of a neutral who is apparently too weak to resist; under these circumstances it would be impossible to refuse him the right to carry out the attack on the neutral territory first."

The justification for such a preventive measure, according to Westlake lies in the right for self-preservation, which also applies against a threatening violation of neutrality. Another concept would also have been not true to life and would not correspond to the character of the society of nations asa majority of sovereign states with an as yet incompletely developed common law code. In the inner-state law system of every civilized country, the repulsing of an immediately threatening attack is a permissible defense act, although there even the help of the state against the law-breaker is furnished. In the society of international law, where this was not the case, anyway not at the beginning and during the 2nd World War, the viewpoint of self-preservation must apply to an unequally stronger extent. In conjunction with this concept, the British government during this war also considered the preventive measure as justified, when it occupied Iceland on 10 May 1940. The British government has justified this measure clearly and correctly in accordance with international law in an official announcement of the Foreign Office, as follows:

> "After the German occupation of Denmark it has become necessary to count on thepossibility of a sudden German advance to Iceland. It is clear that the Icelandic government, in view of such an attack, even if it was only carried out with very small forces, would beunable to prevent its country from falling into the hands of the Germans completely."

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The preventive mdasure was carried out, although Iceland expressly defended herself in a note of protest against the occupation.

I also ask to note that the United States agreed with this standpoint of law, as is proven by the well-known message of the President of the United States to Congress of 7 July 1941, and the subsequent occupation of Icdland by armed forces of the American Navy.

In accordance with these basic principles of law, the charge at hand must be explained. I have tried to clarify the charge in the presentation of evidence, and May I summarize the major viewpoints which actually showed a closely impending violation of neutrality on thepart of the Allies through the partial occupation of Norway, and thereby justified the German action against Norway.

At the end of September and early October 1939, Grand Admiral Raeder, as the presentation of evidence has shown, received various information through the current reports of Admiral Canaris as director of intelligence and through General Admiral Carls, which let the danger be recognized, that the Allies, in accordance with their plans to encircle Germany, would occupy bases in Norway, in order to halt in particular the imports of ore from Scandinavia.

English airplane-crews camouflaged in civilian clothing had been seen in Oslo, and survey works by Allied officers on Norwegian bridges, viaducts, and tunnels up to the Swedish border had been identified. Furthermore, the quiet mobilization of Swedish troops because of the endangerment of Swedish ore-territories had become known. Raeder was justified in considering himself obliged to report this state of facts to Hitler and to point out the danger to him which would arise for Germany, if English and French armed forces were actually to fortify themselves in Scandinavia. The dangers were clear. They consisted of the cutting-off of all imports from the industrial areas of Scandinavia, in particular of the ore-imports, as well as in the fact that the Allies obtained a favorable base for air attacks, and last but not least, inthe fact that the German Navy was threatened in its flank and its operational potenitalities were limited.

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The blockade of the North Sea and Baltic wouldhave had strategically disastrous consequences.

As the information did not yet offer a final over-all picture, Raeder did not suggest immediate occupation, but only pointed out the dangers in order to wait for further developments for the time being. Hitler therefore also did not make a final decision during this discussion of 10 Oct. 1939 but agreed to wait. Similar information was received during the months of October and November and now also by the Naval attache Lieutenant Commander Schreiber who had in the meantime been sent to Oslo, to whose Affidavit (Raeder Exhibit No. 107, Vol. VI, page 464 ff) I refer. The Norwegian shipping association had made tanker tonnage of about 1 million tons., available to England with the consent of the Norwegian Government (see also Reader Exhibit No. 86, War diary of 6 April 1940,)according to which 90% of the Norwegian tankers had been put at the disposal of England.

In Winter, 1939/40, the information concerning espionage missions of the English and French Secret Service to Norwegian agents and English harbor consulates for the purpose of reconnoitering landing opportunities and examination of Norwegian Railroads with regard to their capacity, particularly the Narvik line and missions concerning information about land and sea airports in Norway took more definite form. By reason of the fact that the information from 2 different sources, namely the Naval Attache in Oslo and Admiral Canaris, corresponded and became more gradually extensive during the months of October to December, 1939, the reported danger seemed to increase slowly all the time.

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In addition, in December 1939 Quisling and Hagelin, sent to Rosenberg -- entirely independently of the sources of information which had existed up to that time -- the same or similar information concerning the landing intention of the Allies, and not directly to Raeder, for the only reason that Raeder didn't know either Quisling or Hagelin at that time. As the question involve was a purely military-strategic one, Rosenberg asked Raeder to discuss things with Quisling so that Raeder could examine the military technical possibiliti in consideration of the fact that an aggression by the Allies in Scandinavia must be expected according to the information received. This is evident from the letter of Rosenberg to Raeder of 13 December 1939, which I submitted as Raeder Exhibit No. 67. Raeder now considered it his duty from the purely military point of view to inform Hitler, with whom he had not discussed this question in the meantime, that corresponding information had meanwhile been received from Canaris, the Naval Attache in Oslo, and Quisling. Hitler wished to speak personally with Quisling, which he did, and decided then to make the necessary preparations for a possible preventive measure to counter the danger threatening, namely the occupation of Norway.

The final decision was still deferred, and information as to what further news would be received and whether the danger increased was awaited.

This caution and delay seems particularly understandable in the case of Raeder. As I have already remarked, Raeder would have preferred if the strict neutrality of Norway had been maintained, especially as he was against every conquest just for the sake of conquest. He knew, on the other hand, that an occupation required the commitment of the whole Navy, thus involving the fate of the entire Navy, and that the loss of at least a third of the fleet had to be reckoned with. It should be clear how hard, from such political and strategiv viewpoints, such a decision was for a conscientious man and soldier.

There was more news, unfortunately, during the first months of the year 1940 and always more definite. In March 1940 surprisingly many English-speaking persons could be seen in Oslo, and Raeder received very serious information, worthy of credit, about shortly impending measures by the Allies

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against Norway and also Sweden. As far as landing intentions were concerned, Narvik, Trontheim and Stavanger were mentioned. Thus it came about that the military planning only took place in February and March, and that the final instructions were issued to the Wehrmacht even as late as March 1940.

There were also numerous violations of neutrality in March 1940, which have been collected in the war diary, and also the mine laying in Norwegian territorial waters at the beginning of April.

The Prosecution has delivered only a few documents against this comprehensive informative material, according to which the German Ambassador in Oslo, Braeuer, did not regard the danger so great, but believed that the English attitude, mentioned also by him, pointed merely to provocation of Germany, in order that Germany might give cause for war operations in Norwegian waters.

Baron Weizsaecker's point of view in cross-examination was that at first he did not consider the danger so great, but he admitted that later on the facts proved that he and Braeuer were wrong, but that Raeder, on the contrary, was right in his apprehension.

This objective accuracy of the conception of Grand Admiral Raeder, and of the information which was the basis of his conception, is shown from separate documents submitted by me and accepted by the Court.

Since 16 January 1940, the French High Command had been working on a plan which had in view, amongst other things, the occupation of harbours and flying fields on the West Coast of Norway. The plan contemplated, in addition, that the operations should possibly be extended to Sweden and the mines of Gaellivare be occupied. Efforts have been made to justify this plan by stating that it was elaborated solely to help Finland against the Soviet Union.

To begin with, if could be objected that an action in support of Finland does not justify any occupation of Norwegian territory. Moreover, the documents show that it was not a question of only altruistic measures in favour of Finland. During the interallied military conferences on 31 January and 1 February, which preceeded the meeting of the supreme Council on

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5 February, the question of direct help for Finland was relegated by the English to second place; they showed themselves to be determined adherents of an enterprise against the mines of Northern Sweden. This is confirmed by General Gamelin in a note of 10 March 1940, and he adds that this opinion obtained the majority vote in the supreme Council, and that the preparation of the Scandinavian Expedition should be started immediately.

And so it came about that the Franco-British fighting forces had been ready for transportation since the first days of March, whereby, according to Gamelin, the leadership of the proposed operations in Scandinavia was transferred to the British High Command. Gamelin adds finally that the Scandinavian plans must be resolutely pursued further, in order to save Finland -- I quote: -- "or at least to lay hands on the Swedish ores and the Northern harbours".

Lord Halifax informed the Norwegian Ambassador on 7 February that England wished to obtain certain bases on the Norwegian coast in order to stop the German transport of ore from Narvik.

In mid-February, English and French general Staff officers visited landing places in agreement with the Norwegian authorities.

According to a report of the Embassy in Stockholm, dated 16 February 1940, the English intention in this respect was to land troops simultaneously in Bergen, Trontheim and Narvik.

On 21 February 1940, Daladier communicates to the French Ambassador in London, Corbin, that the occupation of the most important Norwegian ports and the landing of the 1st Division of the Allied Fighting Forces in Norway would give Sweden a feeling of security; and he goes on to say that this operation must be planned and executed at shortest notice, "independently of Finland's call for assistance." In the event of this demarche in Norway meeting with refusal, which was likely, the British Government was to confirm the Norwegian refusal and immediately seize control of the bases it needed for the safeguarding of its interests, and was to do so in the form of a "surprise operation". Whether Sweden refuses the passage through to Finland does not

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appear important; what is emphasized is rather the -- and I quote -- "advantage of having secured a dominating position against Germany in the North, interrupted the sea transport of Swedish ore, and brought the Swedish ore districts within the radius of action of our aviation".

On 27 February 1940, Churchill declared in the British House of Commons that he was "tired of considering the rights of Neutrals."

It is interesting to note that unanimity is achieved in the 6th session of the Supreme Council on the 28 March 1940 -- and I quote:--

"Every attempt of the Soviet Government to obtain from Norway a position on the Atlantic coast runs counter to the vital interests of the Allies and would elicit due counter-measures."

The conception thus defended by the Supreme Council, with reference to the vital interests of the Allies, coincides exactly with the legitimate notions of the "right of self-preservation" presented by me, and is in complete contradiction to the interpretation of international law propounded in this respect by the Prosecution.

The ultimate execution of the operation in Norway, that is, the landing and the constitution of bases, was decided on 28 March 1940 between the authoritative British and French departments. This date was indicated at a session of the French War Committee by the French Prime Minister; and General Gamelin added that he had, on 29 March, impressed upon General Ironside the necessity of having everything ready for a swift occupation of the Norwegian ports. He said he had also informed Mr. Churchill to the same effect on the occasion of a visit to Paris.

One day later, on 30 March, Churchill declares on the Radio, and I quote:

"It would not be fair if, in the fight for life or death, the Western Powers adhered to legal agreements."

On 2 April 1940, at 1912 hours, London notified Paris by telegram that the first transport was "to sail on J.1. day", and that J.1. day was in principle 5 April.

On 5 April, Earl De La Warr established that neither Germany nor the neutrals could be certain that "England would allow her hands to be tied

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behind her back while following the letter of the law".

The English Minister of Labor, Ernest Brown, declared on 6 April 1940 that neither Germany nor the neutrals could be certain that the Western Powers would adhere to the letter of international law.

On the same day -- this was one day after the laying of mines in Norwegian territorial waters -- a secret English operational order was given "concerning preparations for the occupation of the northern Swedish ore fields outside Narvik."

In this order it was decided that the task of Avonforce consisted first of all in "securing the port of Narvik and the railroad to the Swedish border." It was added that it was the intention of the Commander-in-Chief to advance into Sweden and to occupy the Gaellivare ore fields and important points of that territory as soon as an opportunity occurred, a formulation which almost reminds one of the words in the prosecution document L-79: "to attack Poland at the first appropriate opportunity."

The original plan to send the first transport to Norway on 5 April was altered; for on the evening of 5 April the British High Command informed the Commander-in-Chief of the French Navy that -- I quote -- "the first English convoy could set out before 8 April which, within the framework of the established time schedule, means that the first French Division is to leave the embarkation port on 16 April".

To complete the story, let it be pointed out that the Norwegian operation was designated by the allies by the camouflage name of "Stratford-Plan", meaning the action, while the German Norwegian operation was referred to by the camouflage name of "Weser Exercise" (Weseruebung).

The preceding facts show that:

Since Autumn 1939, preparations for eventual action in Norway were made by the studying of landing possibilities. Since January-February 1940, the danger of an occupation of bases in Norway by the Allies was threatening. In March 1940, the execution of the scheme was ultimately decided upon and the departure of the first convoy scheduled for 5 April. Simultaneously, mine-laying was carried out in the Norwegian territorial waters and troops were at

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the same time concentrated in British and French ports for the Norwegian operation. Thus, factual illegality in the form of imminent neutrality violations existed from the point of view of international law, and neutrality violation had indeed been already committed to a certain extent (mine-laying) This was the point where Germany, in accordance with the international notion of the right of self-preservation, was entitled to resort to equivalent counter-measures, that is, to occupy Norway and prevent the threatened occupation by other belligerent States. It was, in fact, as was shown later, the last moment; for Germany did frustrate the allies, only because the British High Command had postponed the departure of the first convoy, originally scheduled for 5 April.

The German operation in Norwar must therefore be considered as legitimate according to the principles of international law. I have the firm conviction that the High Tribunal, in view of the circumstances just exposed in relation to existing internation law, will conclude that Grand Admiral Raeder has, with regard to the occupation of Norway, acted from purely strategic points of view, in due consideration of international legal standards, and accordingly acquit him of the charge made by the Prosecution.

With reference to Norway, the Prosecution has moreover charged against Raeder, and incidently against Doenitz, that a violation of International Law is entailed by the fact that according to an order dated 30 March 1940, the Naval Forces were, until the landing of troops, to fly the English flag.

This too is an error of the Prosecution as regards international law for sea warfare. The Hague regulation on land warfare does expressly forbid the abusive flying of flags. But in sea warfare the answer to this question, according to the prevailing international law, is definitely that, until hostilities begin, ships may sail with their own, or with enemy or neutral flags, or even with no flags at all. I take the liberty, in this respect, of availing myself of Dr. Mosler's juridical treatment of the question in his judgment appearing under item 7, and in particular of his references to scientific literature on the subject, according to which the use of a foreign

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flag is universally considered as a legitimate war deception and is allowed and especially condoned by British practice, this in accordance with the historical precedent when Nelson, in the Napoleonic wars, flew the French fla off Barcelona to lure the Spanish ships.

This dispute is, however, superfluous in the present case because actually the order just mentioned, instructing the flying of the English flag, was, according to documentary evidence, cancelled on 8 April, that is to say, prior to the execution of the Norway operation.

In conclusion, I only wish to emphasize, with reference to the subject of Norway, that after the occupation of Norway, Raeder and the German Navy did everything they could to give a friendly character to the relations with Norway and to treat the country and the people honorably and well during the occupation, and to spare them every unnecessary burden, Raeder and the Admiral Commanding in Norwegian waters, General Admiral Hoehm, moreover, endeavored to conclude a peace with Norway guaranteeing Norwegian national interests. Their efforts were frustrated by the institution, by Hitler and Himmler

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of a so-called civil administration by the Reich Commissioner Terboven which unlike the Wehrmacht was connected with the Party, the SS, SD and Gestapo. As confirmed by Boehm in his affidavit, Raeder repeatedly intervened with Hitler in favor of the ideas he shared with the Admiral in Command in Norwegian waters for good treatment of the Norwegian people and an early conclusion of peace and, together with Boehm, set himself with the utmost vigour against Terboven. A gain, the tragic event is repeated here that the Wehrmacht, despite its utmost efforts, has neither been able to oppose Hitler's dictature nor the dictature exercised to Hitler's knowledge by such a mediocre Reich Commissioner as Terboven. The Norwegian people who had to suffer under the occupation know - and this is the only gratification for Raeder - that the Navy was not the cause of these sufferings. On the other hand, it is interesting to know that the differences which cropped up between Hitler and Raeder with reference to Norway are precisely one of the chief motives which caused Raeder to ultimately insist upon his resignation in September, 1942. Other motives were that Raeder also had differences with Hitler, with reference to France, because here again Raeder urged the conclusion of peace, while Hitler with his excessive character was opposed to conciliatory steps of this kind in occupied countries. Raeder also and differences with Hitler with reference to Russia, because he was in favour of observance of the German-Russian treaty and declared against the breach of the Treaty and against war with Russia.

THE PRESIDENT: We will adjourn now.

(A short recess was taken.)

I now come to the charge of the Prosecution with regard to a war of aggression against Russia. The charge of the Prosecution on this subject cannot be very well understood. It dealt with land warfare, so that the Navy did not have to meet any preparations, with the exception of the few preparations in the Baltic Sea. The Prosecution itself has furthermore stated that Raeder had been opposed to the war against Russia. The only thing which

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could remain from the charge of the Prosecution is its claim that Raeder had fundamentally been in favor of the war against Russia also, and had only been opposed to Hitler with regard to the time factor. With reference to C-170 the Prosecution states that Raeder had only recommended the postponement of the war against Russia until the time after the victory over England. According to Document C-170 this actually could appear this way. In reality, however, the case is different, and the true state of affairs has been cleared up by the detailed presentation of evidence. The witness Admiral Schulte-Moenting has clearly stated, without being contradicted in the cross-examination, that Raeder not only raised objections with regard to time limits, but that he fundamentally argued with Hitler against a campaign against Russia, and that because of moral reasons and reasons of international law just because he was of the opinion that the non-aggression pact with Russia, as well as the trade agreement would have to be observed under all circumstances. The Navy was especially interested in the delivery agreements with Russia, and has always tried to closely observe the treaties. Besides this basic principle of observing treaties, i.e. besides this general reason, Raeder represented the opinion that a war against Russia would also be false from the strategical standpoint. His own testimony a nd that of Schilte-Moenting show that in September, November and December of 1940 Raeder tried again and again with Hitler to dissuade him from the thought of a war against Russia. It is correct, that in Document C-170 only the strategical justification for his opposition has been recorded. However, this is not at all surprising, because in the papers with the Naval Operations Staff naturally only justifications were recorded, which were of naval technical and strategic importance, but not political reasons.

I have already shown that Hitler fundamentally did not permit, that Raeder as Commander-in-Chief of the Navy intervene in foreign-political questions, i.e. in things, which did not belong in his department. If Raeder did once try this, contrary

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to the will of Hitler, and that in cases of special importance, then he could do it only under four eyes and accordingly could not then record these conversations in the war diary. However, he has always told everything to his chief of staff as his closest confidante. As the result of this, Schulte-Moenting could confirm clearly that Raeder in this case opposed Hitler because of moral misgivings, also with regard to international law and furthermore, also employed strategical reasons in the hope of being able to influence Hitler sooner in this manner. Schulte-Moenting even stated -- just like Raeder -- that in November the latter had gained the impression after a discussion, that he had dissuaded Hitler from his plans. I believe that this has clarified the matter, and only the tragical factor remains here also, that Hitler paid just as little attention to Raeder in regard to political objections to Russia also, as in regard to Norway and France.

A similar pact is the reproach of the Prosecution referring to the war of aggression against U.S.A. and the violation of the Neutrality of Brazil. As both these reproaches are sufficiently refuted within the framework of the evidence, I am only going to discuss them very briefly.

According to the statement of the Prosecution Raeder somehow collaborated in the plan to induce Japan to attack America. As a matter of fact no naval strategic conferences were held between Japan and Raeder. Raeder was always of the firm conviction that a war against the USA must be prevented just as much as a war against England. Since the war against England had now come about, it was Raeder's duty as Commander-in-Chief of the Navy to use all his strength to fight successfully against England. Raeder knew the limitations of the fighting ability of the Navy, and it was therefore quite out of the question that he should have collaborated in an extension of the war, considering as he did the conduct of a war against England as a too difficult task. The GB-122 document, C-152 submitted by the Prosecution mentions

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a proposition that Japan should attack Singapore and that the U. S. A. should be kept out of the war. This suggestion made to Hitler that Japan must attack Singapore was in all points correct.

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We were now in a war against England, and Raeder was forced to try to concentrate all his forces against England. He was thus justified in suggesting that Japan -- as Germany's ally -- should attack England. Moreover this one discussion of Raeder was held on 18 March 1941, whilst Hitler in his Instructions No. 24 of 5 March 1941 had established the directive that Japan must attack Singapore which he considered a key position of England.

May I interpose one sentence here? It can be seen from the report by General Marshal that General Marshal stated that no common plan had been in evidence between Germany and Japan.

Apart from this testimony this case is refuted by documents, namely the complete excerpt of Jodl's diary, which I submitted as Raeder Exhibit No. 115 as well as by further submitted documents, Raeder Exhibit Nos. 116-118. These documents prove that Brazil had violated the rules of neutrality by permitting the USA to make use of Brazilian airdromes as a base for attacks on German and Italian U-boats. The Brazilian Air Ministry has furthermore officially announced that attacks had been made by the Brazilian airforce. Considering such conduct against all rules of neutrality, the demand of the Naval command for armed action against Brazilian vessels is justified. In this case also the Prosecution did not succeed in proving Raeder to have committed a crime or even an offense against International Law.

The Prosecution has very carefully submitted an exceedingly large amount of material, and the many details implied necessarily great exactitude in the taking of evidence. I have endeavored to demonstrate that all the remonstrances, partly on factual, partly on legal grounds, do not represent the facts of a criminal case within the meaning of this Charter. In as far as I have not, in spite of my striving for great exactitude, dealt with certain documents, it was because they seemed to me of small importance, and in any case of no importance in criminal law, for instance the many cases in which Raeder was only mentioned because -- without officially taking any part -- he received a copy of the documents for routine reasons. It would have been tiring to go into such recurrent cases, even if the Prosecution unremittingly reiterated those formal indication, so that one was often inclined to

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remember the saying of Napoleon that repetition is that turn of speech which is the best evidence.

I further believe that in the final pleading for Grand Admiral Raeder I may leave aside an argumentation regarding the real war crimes or crimes against humanity, as I cannot establish any connection between these and Raeder from the material submitted by the Prosecution. Further no particular reproach is made against Raeder in this connection with the exception of the two cases connected with the commando order, namely the shooting of two soldiers in Bordeaux and the shooting of the British soldier Evans, who was made a prisoner by the SS on the Swedish border, after he had previously participated in the small weapons attack on the "Tirpitz". Thus far the reproach has been refuted by testimony in so far as it concerns the Navy. Both cases did not come, or came only later, to the knowledge of the Naval Command -- just before Raeder's departure. In both cases the act was committed on the basis of the commando order of Hitler himself or by the Security Service (SD) without the knowledge and will of the Naval Command; and -- what is the most important -- in both cases the documents of the Prosecution showed that these soldiers were in civilian clothes, and therefore were not entitled to the protection of the Geneva Convention.

All other criminal facts which the Prosecution submitted especially for the East I need not deal with, as Raeder did not participate in them. I hope also to have the approval of the Court in mentioning the handling of the Katyn case, in which the Court pointed out that Raeder was not involved, and therefore refused my collaboration as Counsel in this connection; from this intend to draw the legal conclusion that, even in this round about way by the conspiracy, Raeder cannot be considered as burdened with these criminal facts, since he did not know of these events and had nothing to do with said events.

The evidence of the Prosecution rests on the wish to have its theoretical basic assumption prevail and be acknowledged, namely the idea that so many crimes cannot have been the conception of a single person, but rather that they result from the conspiracy of many, that they must have originated in a plot. These conspirators could logically in the first place have been only

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Hitler's own collaborators, that is to say the real National Socialists. As, however, Hitler wished to realize, and did realize, results of military and economic importance, something peculiar occurred: There were no specialists among the National Socialists for these particular tasks. Most of the National Socialist collaborators did not previously follow a trade requiring technical education. Hitler, therefore, despite his desire to have only National Socialists around him took on as key people in particular fields persons who were not National Socialists, such as for instance Schacht for economics, Neurath for politics and, for military tasks, Fritsch for the Army and Raeder for the Navy. The Prosecution followed him in the interests of its conspiracy theory, without paying attention to the fact that these were no National Socialists, and therefore in the last analysis could not really be counted among the conspirators, and without taking into account that Hitler used these non-National Socialists only as technicians in a well-defined field, and this moreover only as long as it seemed absolutely necessary to him and therefore he agreed to the elimination of these men, who at bottom were not in sympathy with him, as soon as the differences between them seemed unbridgable, which was bound to happen sooner or later with each of them in his own particular field.

By this wide conception of the idea of conspiracy and by this extension of the Prosecution's fight against non-National Socialists, the Prosecution has abandoned the basic concept which was formerly propagated abroad, namely that of the fight against National Socialism, but not against the whole of Germany, two ideas which at no time and in no place have been really identical, as the Prosecution now tries to make out. I do believe that thereby the Prosecution also abandons President Roosevelt's basic idea.

But another factual and legal point of view has not been taken into consideration by the Prosecution. I mean the concept of division of competence in political law, that is to say the subdivision into individual competencies. This division of competence -- resting on the idea of division of labor -- has, in accordance with its essence, a separative character; it divides the field of work from the angle of local, functional and technical points of view. For one thing it positively defines the limits within which

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any single division is to become active; at the same time it defines negatively the boundaries of this activity by specifying which are the things which no longer concern the agencies in question, that is to say where they must not develop any official activity.

In a democracy, an additional contact exists by virtue of the general Cabinet meetings and/or through the Prime Minister, the Reich President, or the Reich Chancellor. But it is different in a dictatorship, particularly i the dictator -- as it was the case with Hitler in the National Socialist Stat uses the separation between the individual governmental departments with extreme skill and sees to it that the individual departments are as isolated as possible, with the result that all decision rests finally with him as the dictator, in which case he even plays out one department against the other.

The partitioning into governmental departments carried out in the National Socialist State, contradicts the concept of conspiracy especially distinctly, making it difficult for the individual to go above his own department in any manner.

This significance may be described by the following example: The formulation of political relations with other States, the contracting or rescission of agreements or alliances with other States, declaring war and concluding peace are matters within the jurisdiction of the authority directi foreign affairs, but they are not within the jurisdiction of the authorities concerned with domestic tasks, such as for instance the Reich Finance Administration, Justice and the Military.

The result is: Since the decision concerning war and peace is not a matter of the military, the military has to accept the decisions made by the political leadership, decisions which have a binding obligation for the military authorities.

The military commander must assume for his department the consequences resulting from the decision. As soon as war is declared, the military forces must fight. They do not bear any responsibility for the war because they we not able to take part in the decision concerning the declaration of war.

Consequently for an army the concept of war of aggression exists in the strategic sense only. Moreover, every war the waging of which is charged to

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it, is simply war regardless whether it may legally be justified or not.

Responsibility from the point of view of constitutional law and criminal law corresponds to the field of jurisdiction. Therefore, if the Commander-in-Chief of a branch of the Wehrmacht assumes responsibility solely for the waging of war, not for the causes leading to war, his responsibility in respect to strategic planning must be confined to planning as such, but not to the possible causes which brought about that war on which the strategic planning is based.

This constitutionally and criminally important division of governmental departments and the distribution of authority was carried out by Hitler in a particularly emphatic manner in the interest of strengthening his own power in many domains, such as for instance, the creation of "The Commissioner for the Four-Year Plan" whose field of work actually belongs to the Ministry for Economics; the creation of Reich Commissioner in the occupied territories, whose activity really comes under military administration;

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and, finally, a fact of interest in the case Raeder, the strict limitation between the three branches of the Wehrmacht and the elimination of the Reichswehr Minister of the and/or Minister of War who held the three branches of armed services together and unified them. The greater the number of the governmental departments became, and the more the departments were cut off from one another, the stronger Hitler became as a dictator, as the only one with authority over all the innumerable agencies. But with this the constitutional as well as the criminal responsibility of the chief of the individual department decreased and with it also the responsibility for strategic planning in one individual department, in this instance the Navy.

Consequently, the Commander-in-Chief of a branch of the Wehrmacht, thus for instance the Navy, can in case of strategic planning only be responsible for the planning of naval strategy; he did not have an overall view of the total planning. Total planning was discussed nowhere; politically and militarily it was in Hitler's hands exclusively because he alone was the conte where all threads and all activities of the individual departments joined.

May I add another sentence here and remind you that for instance in the case of the Norway action, even Goering, as late as March 1940, was not included in the activities, which is one proof of the strong separation of the individual departments even within the Wehrmacht, the armed forces.

In addition, no purely strategic planning as such can be criminal because it is customary in every country and because in every country the military commander of a branch of the armed forces does not and cannot know for what purpose the political leadership will use the plan prepared by him, whether it is a war of aggression or a defensive war.

The documents submitted in my document book prove convincingly that the military agencies, both of the Allies as well as in Germany, worked out strategical plans in the same way and in the same areas and at the same times, namely in regard to Norway, Belgium, Holland, Greece, Rumania, and moreover the Allied plans for the destruction of the Rumanian oil fields and especially of the oil sources in the Caucasus. Particularly , the plans concerning the Caucasus on the part of the Supreme Council, i.e. of the combined British and French General Staff, show the correctness of the statements. The Supreme

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Council would certainly decline to be made politically responsible for these strategical plans, although the Soviet Union was still neutral at the time thereof, and the execution of the plans was to strike not only the enemy country Germany, but also the neutral Soviet Union, as the documents also sho

The similarity of the documents concerning such plans is absolutely convincing and shows a strong parallel trend. May I point in this connection to my earlier statements made here on the occasion of the comprehensive discussion regarding the importance and admissibility of the documents submitted by me; may I also point in addition to document/Exhibit No. Raeder 130, namely the letter of the Foreign Office in which submission of the British Admiralty files is refused, but in which the plans in regard to Norway and the whole of Scandinavia are admitted, but with the addition that the plannin was not transferred into action, a fact which depended only on Germany's having started the execution of the planning first.

One may be a pacifist and therefore basically opposed to military force, but then one must be consistent and must take a stand not only against German military force, but against any military force. One may condemn the fact that the military, as the operational authorities, prepare military plans, and may in future insist that such plannings are punishable. But then not only German military planning, but also foreign military planning must be punishable.

The above statements show that the Prosecution misjudges the actual and legal conditions, if it wishes to make/responsible Raeder for political decisions although he had nothing to do with them, but has always worked as soldier only. Just as little as it could be suggested 130 years ago to bring before a Court an Admiral of the dictator/so Napoleon, just as little can one now condemn an Admiral of the dictator/. Particularly with dictators -- and the Prosecutio Hitler overlooks this -- not only the power and the influence of a military commander diminishes but his responsibility must also diminish to the same extent; for the dictator has seized all power and with it all responsibility, all the more so, if a dictator appears with such an extraordinary will, such immense power, as Hitler. The French Prosecutor said in a particularly pertinent way on 7 February 1946 before this Tribunal word for word:

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"Hitler was actually the incarnation of all willpower".

The resulting strength and power has been hardly considered by the Prosecution, and, in any case, it has not been taken into consideration at the presentation of the facts and the legal conclusions. How great this power is, Gustave Le Bon shows in his famous book "Psychology of the Masses" in the chapter "The Leader of the Masses".

I quote from it:

"Within the class of leaders a somewhat strict division can be made. The energetic people with strong wills, but without perseverence belong to the one kind; the people with a strong, persevering will belong to the other kind, which is much rarer...

The second class of leaders, those with a persevering will, exercises a much more important influence, in spite of its less brilliant appearance."

Hitler belongs to this second class of leaders, who, in agreement with this quotation, exercised an immense influence, and who, on the other hand, was unimpressive in his brown uniform.

Gustave le Bon continues:

"The unyielding will, which they possess is an exceedingly rare and powerful attribute which subordinates everything to it. One does not always realize what a strong and persisten will can achieve. Nothing can resist it, neither nature nor Gods nor men."

In view of these words, one must realize that Raeder could not resist either.

Accordingly, only the question remains; can revolt ever be a soldier's duty, an open revolt? This question will be denied by every commander all over the world and likewise by any other men with one exception only, if it is the case of a dictator committing a crime the criminality of which is recognized by the military commander himself. Accordingly, Raeder could be made responsible for a military crime only, but not for a political one, because for the political crime, the dictator himself must answer. Should the Prosecution have come to some other conclusion regarding Raeder it has only occurred -- as I have already emphasized in my introduction -- because, in their misconception of the actual and juridical facts, they

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regarded Raeder as politician and soldier. But he was a soldier only. He lived for the Navy alone, for the welfare of the Navy for which he also is now prepared to bear all responsibility to the full extent. He has led the Navy in a unified manner, and, aided by his Officer-corps, has taught them to think decently and to fight morally, to fight up to humanity's expectations of a soldier. It must not be that, as a result of the deeds of a Hitler and his National Socialism, the officers and soldiers of this Navy be defamed by their highest ranking officer being declared a criminal. From a historical viewpoint Raeder may be guilty, because he, as many others within the country and abroad, did not know or see through Hitler, and did not have the strength to resist the dynamic strength of a Hitler! but an omission is no crime. What Raeder did or left undone in his life was in the belief that he was acting correctly and, that as a conscientious soldier, he had to act in this way. Raeder is highly regarded as an officer who is not a criminal and cannot be a criminal since all his life he has lived honorably and as a Christian. A man who believes in God does not commit crimes, and a soldier who believes in God is not a war criminal.

I therefore beg the Tribunal to acquit completely Grand Admiral Dr. h.c. Erich Raeder regarding to all points of the indictments.

THE PRESIDENT: I call on Dr. Sauter for the defendant Schirach.

DR. SAUTER: Baldur von Schirach, who at that time was Reich Youth Leader welcomed in 1936 the guests to the Olympic Games in Berlin with the following words:

"Youth throws a bridge across all frontiers and seas!"

I call to the Youth of the World and through them, to Peace."

And Baldur von Schirach, then Gauleiter of Vienna, said to Hitler in 1940:

"Vienna cannot be conquered with bayonets, but only with music."

These two sayings are charactoristic and show what kind of man is this defendant. It is the duty of the Defense to examine the evidence produced in this trial for the purpose of ascertaining whether the said Baldur von Schirach who expressed his political programme by such utterances, really committed those crimes against law and humanity, with which he is charged by

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the Prosecution.

Schirach is the youngest defendant here. He is also, of all the defendants, the one who was by far the youngest on his joining the Party, which he did when he was not yet 18. Those facts are perhaps already of some significance for the judging of his case. When still at school he entered the fold of the rising National Socialism; he was particularly attracted by the Socialist idea which had already in his country school, recognized no difference between the sons of fathers of different classes and professions; those boys around Schirach actually

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in the popular movement of the 1920 's in Germany the promise of the resurgence of our Fatherland from the aftermath of the lost Great War, to a happy future, and fate willed it that as early as 1925 Schirach came into personal contact, with Hitler in Weimar, Goethe's old town when he was seventeen Hitler' personality made a fascinating impression on young Schirach, as he himself admitted; the program for the Racial Community (Volksgemeinschaft) which Hitler had evolved at that time met with Schirach's hearty approval, because he thought he saw reproduced therein on a full-size scale that which he had personally experienced in a small way in the comradeship of the country school and in his Youth organization. To him and his comrades Hitler appeared as the man who would open for the younger generation the road into the future; from him this younger generation also got its hope for a possibility to work its hope for a profession its hope for a happy life. So the young man became a convinced National Socialist; he became one as a result of the environment in which he had spent his youth, and which offered a soil which was only too fertile for the growth of that ideology ("Weltanschauung") which young Schirach embraced, because at that period he held it to be the right one. This environment of his childhood and a biased reading of political books, which the young man devoured in his hunger for knowledge, made of him, while still an inexperienced youth, also an anti-semite. It is true that he did not become an anti-semite in the sense of these fanatics who ended in ot recoiling with horror from acts of violence and progroms, nor in the sense of those fanatics who finally created an Auschwitz and murdered millions of Jews; but an anti-semite in that moderate sense, who would merely restrict Jewish influence in the government of the state and in cultural life, but for the rest would leave untouched the freedom and rights of Jewish fellocitizens, and who never thought of exterminating the Jewish people. At least that is the picture of Hitler's anti-semitism which young Schirach drew for himself during those years.

That this was really Schirach's opinion is also substantiated by the statement which Schirach made here in the morning of 24 May 1946, in which he described without reservation the crimes committed by Hitler as a spot of shame in our history, as a crime which fills every German with shame ;

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that statement in which he openly expresses that Auschwitz was bound to be the end of each and every racial policy and anti-Semitism. This statement came from the deepest spot in the heart of the defendant Schirach; it was the result of the terrible disclosures which these trials have brought to him also, and Schirach has given this statement here before the broadest public in order to bring back the German youth from a wrong road to the road of justice and tolerance.

Gentlemen, let us now regard the more important accusations which have been raised against Schirach, and the major results which the evidence has shown in the individual points :

1. The defendant Schirach is first of all accused that before the seizure of power, that is before the year 1933, he actively furthered the National Socialist Party and the youth-organization affiliated with it, and that he had thereby contributed so that the Party could come into power. He had been, as is stated in the Trial Brief, a close and subordinate follower of Hitler; he had stood in blind loyalty to Hitler and the latter's National Socialist world of thinking; and he had, as leader of the student-league, led the students ideologically and politically to National Socialism and won them for it.

All this is not denied by Schirach in any manner : he has done what he is being accused of in this respect; this he confesses openly, and for this he naturally holds himself responsible today also. The only thing which he denies for this as also for the later time the more emphatically, is the accusation that he has participated in a conspiracy. According to Schirach's opinion, the Fuehrer-principle and dictatorship in their character and their theory are absolutely incompatible with the idea, of a conspiracy, and a conspiracy appears to him as a logical impossibility if many millions of members are to be included in it and if its existence and aims lie exposed before the country in question as well as the foreign countries. We furthermore know from the results of these trials that Hitler, aside from Bormann and Himmler did not have nay firend, any advisor, with whom he expressed himself as to his plans and aims; he rather drove the Fuehrer-principle to the furthest extremes.

He took no cognizance of any advisory meetings and discussions, but reached hi decisions solely by himself, without even listening to the opinion of those closest to him. With him there were only orders on his part and unconditional obedience on the other side and I do not wish to make any further statements about that chapter. That is how the"conspiracy" actually looked; and all of us who have lived through these trials would never have considered this most radical increase of the Fuehrer-principle possible had not all defendants and all witnesses who know about this, in complete agreement and without a single exception, shown the same picture to us again and again.

Schirach now is not denying at all thatalready in his very early years he came completely under the influence of Hitler; that he had placed himself with his whole young personality in the service of this idea; and that at the time, as is stated in the indictment quite correctly, he was devoted to Hitler with unconditional loyalty.

If this was a crime of young Schirach, a crime which millions of older, more experienced, mature Germans have committed with him, then you, gentlemen as Judges, may condemn him for this if our law code furnishes a legal basis for it. This then would be a further disappointment, in addition to the many others which he has already experienced for years. Schirach knows today that he has given loyal support into the end to a man who did not deserve this, and he also knows today that the ideas for which he was enthusiastic in his young years and for which he sacrificed himself led in practice to aims, which he himself had never thought of. But also the Schirach of today, cleansed by many experiences, cannot see any criminal act in that activity of his younger years carried out in good faith together with millions of other Germans, which he developed for Hitler and the latter's party. Because the Party at that time appeared quite legal to young Schirach, Schirach neverhad any doubt that it also came into power by legal means. The seizure of power by the Party, the appointment of Hitler as Reich Chancellor by Reich President von Hindenburg, and winning the majority of the people through the Party in repeated elections, confirmed for young Schirach again and again the legality of the movement which he had joined.

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If today he is to be punished because he acknowledged this same Hitler as his Fuehrer, whom millions of Germans and all states of the world have recognized as legal head of the state, Schirach could never acknowledge such a decision as being just. In spite of the severe judgment which he himself has pronounced in this Court Room about Hitler and had to pronounce here according to his convictions, he would feel himself a victim of his political convictions if he were to be sentenced because as a young enthusiastic man he had joined the National Socialist Party and collaborated in its construction and seizure of power. At the time he did not recognize that as a crime but from his standpoint he considered it his patriotic duty.

2. The second, far more important accusation which has been raised against the defendant von Schirach goes to the effect that he, as Reich Youth Leader in the years 1932-1940, to quote the accusation literally "poisoned the world of thought of the youth with the Nazi-ideology, and especially trained it for aggressive war."

Schirach has always refuted this claim with all deciviseness, and these claims have not been substantiated either by the results of the evidence. The law on the Hitler Youth of 1936 described Schirach's task as Reich Youth Leader "to deucate the youth outside of the parental home and outside of the school physically, intellectually and morally for service to the people and to the community of the people, in the spirit of National Socialism through the Hitler Youth Movement and itsleader, the defendant v. Schirach."
This is how for the program went, being repeated word for word in the enactment decree of 1939, which came out so late because Schirach did not intend to introduce compulsory membership until the movement would practically include the entire German youth on the basis of voluntary membership, so that future joining by compulsion would exist on paper only.

The Hitler Youth program as it is formulated by Schirach in his speeches and writings, --because no other program of the Hitler Youth exists, does not contain a single word which would indicate a military education of youth, much less an education for aggressive warfare. But even in practice, the education of youth according to Schirach's ideas in no way gives evidence of

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a military education of German youth for such a purpose. In that respect the point was stressed by the prosecution that the Hitler Youth was organized in various "Battalions and divisions". That is correct although the designations listed by the prosecution are not correct and although they do not have the least bit in common with military formations. But in the last analysis, every youth movement the world over will show a classification into smaller or larger units; each of these units naturally needs a name also, and it must also have a responsible leader. Similar to other countries, as also in the German Hitler Youth, the leader of the unit was designated by some sign of his rank.

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From his own familiarity with practices in foreign countries Schirach knows that foreign youth organizations in Switzerland as well as in France, as well as in other countries. Also have similar classifications and similar insignia, and it never occurred to us so far to make that a reason for considering such foreign youth organizations as military associations.

It was furthermore stressed that formations of the male youth in Germany were also given training in shooting. That is also correct but proves equally little, in the opinion of Schirach, because the shooting instruction for the Hitler Youth consisted fundamentally and without exception of low-caliber target practice, in other words, using short, light rifles (Flobertstutzen) which are nowhere in the world considered as a military weapon and which are not even mentioned in the enumeration of military weapons in the Versailles Treaty. Hitler Youth in Germany did not possess a single military weapon, no infantry rifles and no machine-guns, no motorized airplanes, no cannon and no tanks, all through their existence. However, if one wants to speak about military weapons, such as are used in modern warfare. As a matter of fact, as has been stated in the cross-examination of Schirach and in order to give added importance to his office a certain Dr. Stellrecht, a technical adviser on shooting instruction in the leadership of the Reich Youth attempted, as was established in his cross-examination to ascribe a certain considerable importance to this very branch of youth training, in order to make his own office appear particularly important. Schirach, however, was able to show without refutation that for this very reason he developed differences of opinion with this technical adviser and so finally parted from Dr. Stellrecht because he, Schirach, rejected any development which might perhaps have led to a military training of the youth. However, this Dr. Stellrecht, who was brought forward by the Prosecution as a witness against Schirach, has nevertheless also admitted for his part, that not a single boy in Germany was trained in handling weapons of war and that not one boy was given a

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military weapon. Of further importance for consideration of these questions is the fact that Schirach as a matter of principle refuse to permit the youth to be trained by active officers or former officers -- because he considered these persons entirely unsuitable to educate the youth in that spirit which he envisioned as the goal of his activity. Moreover, neither Schirach nor any of his closer associates, were officers before the war and the same holds true for the overwhelming majority of the high or low-ranking HJ leaders subordinate to him.

All these facts are firmly established through the testimony of the defendant Schirach himself and through depositions made by the witnesses Lauterbacher, Gustav Hoepken and Maria Hoepkin during their examination. For a number of years these witnesses were Schirach's closest collaborators; they are thoroughly familiar with his views and principles and they have unanimously confirmed that it is entirely out of the question to speak of a military, or even a pre-military, training of the Hitler Youth.

May I add one remark here, gentlemen.

I have just mentioned, as witness, the name Lauterbacher. The Prosecution, during the course of their cross-examination, made the attempt to doubt the credibility of the witness Lauterbacher.

On the 27 April, 1946, during his interrogation, the witness was asked about how many people Lauterbacher had hanged publicly and furthermore by putting to him the statement that he had ordered that four or five hundred prisoners from the penitentiary in Hanover should be poisoned or executed by shooting. In this connection the American Prosecutor had submitted seven affidavits under document USA 874, offered in evidence.

Amongst them there was one by a certain Josef Kramer, who in fact has made the assertion in his affidavit that the witness who appeared here for Schirach, witness Lauterbacher, in his function as Gauleiter at Hanover, had given him the order concerning the murder of the inmates.

During the Court's session of the 27 May, 1946 I had protested against the use of that affidavit by Kramer and I had shown to you

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gentlemen a newspaper article, according to which the witness Kramer on May 2, 1946, by a court in the British sector, had been condemned to seven years imprisonment. Several days ago I submitted a report of the "Rheinische Zeitung" of 6 July, 1946 as evidence to show that our witness Lauterbacher in the meantime had been acquitted by the Supreme British Military Court in Hanove

From that it can be seen that the accusations which at the time the Prosecution made against the credibility of the witness Lauterbahher and at which time they based their statements on the affidavit of Kramer, was not justified.

May I then continue my presentation, on page 8.

It has also been repeatedly emphasized in rebuttal that the Hitler Youth wore a uniform. That is correct, but it proves nothing. For the youth organizations of other countries, too, are accustomed, as is known, to wear a common costume, some sort of a uniform, without anybody for this reason terming them military or semi-military corporations, and Schirach and several of his associates have informed me that in many democratic countries, which certainly do not contemplate war, much less a war of aggression, the male youth is being trained in handling actual military weapons and that every year contests are held in shooting wit military rifles.

But why was it that Schirach introduced a uniform for the Hitler Youth, and indeed not only for the boys but also for the girls? We have heard the answer to this from several witnesses. Schirach, I may quote here, saw in the uniform of the boys and in the uniform costume of the girl the "dress of socialism", the "dress of comradeship". Schirach wrote, the child of the rich industrialist was to wear the same clothes, as the child of the miner, the son of the milliona ire the same as the son of a unemployed. The uniform of the Hitler Youth was to be as Schirach already wrote in 1934 in his book "The Hitler Youth", "the expression of an attitude, which did not ask for class and property, but only for effort and achievement." The uniform of the Hitler Youth was for Schirach, as expressed further in this same book

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of his "not the sign of any militarism, but the emblem of the idea of the Hitler Youth, namely the idea of the classless society", in the spirit of the election slogan which he gave the Hitler Youth in 1933: "Through Socialism to the nation".

Schirach always remained faithful to this principle as can be seen from the quotation. Thus he wrote in the official publication of the Hitler Youth in 1937. "The uniform is not the expression of a martial attitude, but the dress of comradeship; it extinguishes class difference and again makes the child of the no insignificant worker socially acceptable today; the young generation in our new Germany must be united in an indissoluble community".

Schirach and this comradeship and this socialism in mind when he described in 1934 in his book "The Hitler Youth", how he imagined this socialism and I quote again: "Socialism does not mean to take the fruits of his work away from someone, in order to give everybody something produced by the work of another. Everyone is to work, but everyone is also to harvest the fruits of his work. It is also not to be that one person should get rich, while thousands of others must suffer want because of him. Whoever exploits his workers and spoliates the community in order to fill his cash box, is an enemy of the German people". That describes the attitude of the defendant von Schirach.

Schirach has pointed out again and again in his numerous writings, articles and speeches, which have been collected in the document book and have been submitted to the Tribunal, that he did not desire any, as he says, "pseudo-military exercise".

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which would only spoil the joy of the Youth in the movement."

The training of the boys in small caliber shooting went hand in hand with the training in all sports activities and complied with the inclination of the male youth, which surely favors in all states the shooting sport with particul interest. But this training had to be decreased very much in volume and importance in favor of the greater aims which Schirach pursued in the Hitler Youth and about which the examined witnesses give as clear a testimony as the writings and speeches of von Schirach. These aims of the Hitler Youth e education are to be explained here briefly, as they have been proven by the presentation of evidence; Schirach is naturally not being charged with these other aims of the Hitler Youth education, but one must consider them nevertheless if one is to obtain a total picture of his activity and of his plans.

Apart from the already mentioned education of the youth for comradeship, for socialism in the sense of overcoming class distinction, Schirach had, as he explained here, primarily four aims in mind:

First the training in sports of the youth in the most varied types of sports and in connection with it the hygienic care of the youth; this branch of the education of the youth took up a very large part of the training of the Hitler Youth, and if the German youth obtained such unexpectedly great success at the Olympic Games in 1936, it was to a certain degree due to the activity of the leadership of the Hitler Youth in cooperation with the sports leader of the Reich, von Tschammer-Osten.

A further aim was the further professional training and advancement of the working youth and the improvement of the position of adolescents in the youth legislation, particularly by prohibition of night work, by increasing the free time, by granting of paid vacations, by prohibition of child labor, by raising of protected age of adolescents, etc., the vocational advance training was promoted so strongly that finally over one million boys and girls entered professional competition annually, and from year to year the average performance in each profession rose very considerably.

A third primary aim was the advancement of love of nature, far away from the slums of large cities, during hiking trips and in youth hostels. Thousands of youth homes and youth hostels were built in the course of these

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years because of Schirach's initiative, namely, by the own means of the Hitler Youth itself, in order to get the youth out of the large cities with their temptations and vices and return to rural life, to show them the beauties of the homeland and also to give a vacation to even the poorest child.

But Schirach dedicated his greatest care to a fourth goal of the educatio of youth: namely the understanding with youth of other nations, and this activity especially is a particularly suitable test for the question of whether one can accuse defendant von Schirach of having taken part in the planning of wars of aggression and of having committed crimes against the peace. Schirach has told us here on the witness stand, that again and again, in summer as in winter of every year, foreign youth groups were the guests of the German youth and it is shown by the documents in von Schirach's document book, for instance, that already in the year 1936, no less than 200,000 foreig youths received overnight lodgings in German youth hostels, and year after year German youth delegations went abroad, especially to England and France in order to enable youth to get acquainted and respect one another. Those very endeavors of Schirach's, which would be absolutely incompatible with the intention to prepare wars of aggression, received unlimited recognition before the war abroad as well. In one of the special numbers of the Hitler Youth magazine in "Wille und Macht" (Will and power) in 1937, dedicated to this task of understanding, which was also published in French and circulated in France and which is quoted here only as an example, the French premier Chautemps -- you have the evidence in the document book -- declared his willingness, as chief of the French government, to advance the further development of these peaceful meetings. "I wish", he wrote, "that the young men of both nations could live every year side by side by the thousands and in this way learn to know, to understand and to respect each other." And further: "Our two nations know that an understanding between them would be one of the most valuable factors for world peace; therefore it is the duty of all those, on both sides of the frontier, who have a clear view and human feeling to work for the understanding and rapprochement of both nations. But no one could do it more sincerely and more enthusiastically than the leaders of our wonderful youth, of the French and of the German youth. If they understood how to

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unite this youth, they would hold in their hands the future of European and human culture."

The mayor of Versailles of that time wrote in the same spirit to Schirach, ending his appeal in the monthly of the Hitler Youth with the words: "The education of youth in this spirit is one of the most important tasks of the politicians of both our countries."

"The French Ambassador Francois Poncet recognized just as heartily Schirach's efforts in the same publication under the title "Youth as a Bridge" and concluded his lengthy article with the words: "French participation enriches German soil. German influence fertilizes French spirit. May this exchange develop further. May also the generations, which will benefit from it at one time contribute to bringing the two halves of Charlemagne's empire closeer and to create between them those relations of mutual respect, harmony and of good comradeship for which both nations are deeply longing, because their instinct tells them that the welfare of European culture depends on it and because they know very exactly when they look into themselves that they have many more reasons to respect and admire each other than to hate each othe

And Schirach himself answered in the next issue of his monthly publicatio with an enthusiastic article under the title: "Salute to France". In it he writes for instance: "The rapprochement of our two peoples is a European task of such urgent necessity that youth has no time to lose in order to work for its achievement." Then further: "Youth is the best ambassador of the world; it is disinterested, frank and without the eternal distruct of which diplomats can frequently not be cured because to a certain extent it is their professional disease. However no propagandistic intentions may be hidden behind youth exchange." And he concludes, "I consider it now my task to bring about a conversation between German and French youth, which must not be on the German side composed of nice statements from me, but of many personal conversations of thousands of young Germans with just as many young Frenchmen.. One must believe in youth, because it above all, can carry out a true understanding."

At the end Schirach reminds that all higher youth leadersof the German Hitler Youth shortly before expressed their respect in the name of the young

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generation of Germany to the French Unknown Soldier by placing a wreath under the Arc de Triomphe, and he concludes with the words: "The dead of the great war died while carrying out their patriotic duty and nobly devoting themselves to the ideal of liberty, but Germans as well as French were always full of respect for the gallant foe. If the dead respected each other, then the livi- should try to shake hands. If the returned combat veterans of both nations could become comrades, why should the sons and grandsons not become friends?"

These are the worlds of the same Baldur von Schirach whom the Prosecution tries to brand as a deliberate partner in a Hitlerian conspiracy for war. The Prosecution wants to make a war criminal out of this untiring prophet of international understanding and of peace, who is charged with having militarized youth and prepared it bodily and psychologically for wars of aggression and of having worked against the peace. So far, the Prosecution has not been able to furnish evidence to this effect.

Schirach has written various doctrinal books for youth, which were used against him in the Trial Brief; he has published a quantity of essays on the most varied problems of Youth education; his innumerable speeches, addressed to youth, have been published; his orders and instructions to youth are available in a collected form. It must, however, be concluded that amongst all this which constitutes his utterances not a single item is to be found in which he made instigations in favour of war or preached attacks against other countries.

The Prosecution has stated in this very connection on Page 2635 of the Transcript that he has referred to Lebensraum in his book "The Hitler Youth" and by so doing adopted as his own an unpleasant slogan of the Hitlerite aggression policy. This claim is however unjustified, for the whole book "The Hitler Youth", does not, any more than every other speech and writing of Schirach, contain this word at all. True, he has referred to "Eastern Space," published in 1936, but he quite obviously did not in any way refer by this ter to Polish or Soviet-Russian territories, but to the Eastern provinces of the former German Empire; that is to say, to territories which formerly belonged to Germany but were notoriously very thinly populated and well-suited as settlements for the excess of population.

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Nowhere has Schirach at any time up to the outbreak of the second World War expressed the idea that he might wish Germany to conquer foreign territories; neither has he ever uttered the odious slogans of German "Master Race" or "Subhumanity" of other nations; on the contrary, he always was in favour of the preservation of peace with the neighbouring Nations and always intervened in favour of the peaceful settlement of any conflicts that cropped up and of inevitable clashes of interests. Had Hitler possessed but a fraction of the love of peace which his Youth Leader preached time and again, then perhaps this war would have been spared us Germans and the whole world.

THE PRESIDENT: We will adjourn now.

(The Tribunal adjourned until 18 July, 1000 hours.)